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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,019	08/22/2001	Gregory J. Linden	P-9611	9188

27581 7590 08/25/2006

MEDTRONIC, INC.  
710 MEDTRONIC PARK  
MINNEAPOLIS, MN 55432-9924

EXAMINER
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COBANOGLU, DILEK B

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/935,019

**Applicant(s)**

LINDEN ET AL.

**Examiner**

Dilek B. Cobanoglu

**Art Unit**

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 and 13-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/03/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment filed 06/15/2006. Claims 1-10 and 13-24 remain pending. Claims 4-10 have been elected and claims 1-3 and 13-24 are non-elected inventions. Claims 11-12 have been cancelled and claims 4, 6 and 8 have been amended.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finkelstein et al. (U.S. Patent No. 6,283,923 B1) and Barry et al. (U.S. Patent No. 6,081,786) as applied in the previous office action and further in view of Adams Theodore et al. (hereinafter Adams) (U.S. Patent No. 5,336,245).

A. Claim 4 has been amended to now recite an internet-based method for a service to enable a medical practitioner to access a secure web-site to respond to a notification of an event relating to a remote patient having an implanted medical device, the method comprising:

- i. Receiving data indicative of the event from the implanted medical device;

- ii. alerting the medical practitioner to the event using an event service (Finkelstein et al.; col.6, line 65 to col. 7, line 7 and lines 21-24); and
- iii. enabling the nurse to execute secure access to a patient database in a single sign-on action.

Finkelstein fails to expressly teach receiving data indicative of the event from the implanted medical device, per se, since it appears that Finkelstein is more directed to receiving data from remotely located asthma monitoring station. However, this feature is well known in the art, as evidenced by Adams.

In particular, Adams discloses receiving data indicative of the event from the implanted medical device (Adams; col.2, lines 3-18, 28-30, 41-51 and Fig. 1-3).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Adams with the motivation of the physician or medical practitioner to access and obtain event data from the implanted device (Abrams; abstract, col. 2, lines 28-30).

B. Claims 5, 7, 9 and 10 have not been amended, and Applicant does not appear to argue the separate patentability of these claims. As such, claims 5, 7, 9 and 10 are rejected for the same reasons given in the previous Office Action (paper number 4-6), and incorporated herein.

C. Claim 6 has been amended and reflects the same limitations as claim 4, therefore claim 6 is rejected with the same reasons as explained in the rejection of claim 4 above and the rejection explained in the previous office action and incorporated hereinwith.

D. Claim 8 has been amended to correct a minor error, the scope and limitations remain the same, and therefore claim 8 is rejected with the same reasons explained in the previous office action.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 4-10 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dilek B. Cobanoglu whose telephone number is 571-272-8295. The examiner can normally be reached on 8-4:30.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
DBC  
Art Unit 3626  
08/17/2006

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER